

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

JOSEPH R. FLYING HORSE,

4:16-CV-04119-KES

Plaintiff,

vs.

ORDER

JAMES HANSEN, DOC Parole Agent, sued in his official and individual capacities; DOUG CLARK, DOC Supervising Parole Agent, sued in his official and individual capacities; KRISTA BAST, SDSP Case Manager, sued in her official and individual capacities; SETH HUGHES, SDSP Unit Coordinator, sued in his official and individual capacities; DARIN YOUNG, SDSP Warden of the SDSP, sued in his official and individual capacities; DENNY KAEMINGK, Secretary of Corrections, sued in his official and individual capacities; MIRANDA WARD, SDSP Case Manager, sued in her official and individual capacities; RILEY DEGROOT, SDSP Case Manager, sued in his official and individual capacities; TROY PONTO, SDSP Associate Warden, sued in his official and individual capacities; DARIK BEIBER, SDSP Unit Manager, sued in his official and individual capacities; VAL MCGOVERN, Board Staff, sued in her official and individual capacities; STACY COLE, Board Staff, sued in her official and individual capacities; KAYLA STUCKY, Board Staff, sued in her official and individual capacities; ASHLEY MCDONALD, DOC Attorney, sued in her official and individual capacities; PENNINGTON COUNTY, Respondent Superior for Pennington County State's Attorney Office; SOUTH DAKOTA DEPARTMENT OF

CORRECTIONS; SOUTH DAKOTA BOARD OF PARDONS AND PAROLES; MARK SMITH, Parole Board Member, sued in his official and individual capacities; JENNIFER ARGUETA, SDSP Correctional Officer, sued in her official and individual capacities; MARY BURGGRAAF, SDSP Unit Coordinator, sued in her official and individual capacities; CATHY SOLMA, SDSP Unit Coordinator, sued in her official and individual capacities; KAY NIKOLAS, Parole Board Member, sued in her official and individual capacities; KENNETH ALBERS, Parole Board Member, sued in his official and individual capacities; PAIGE WILBUR BOCK, Parole Board Member, sued in her official and individual capacities; REVEREND PATRICIA WHITE HORSE-CARDS, Parole Board Member, sued in her official and individual capacities; TIM GROSS, Supervising Parole Agent, sued in his individual and official capacities; JC SMITH, Supervising Parole Agent, sued in his individual and official capacities; AMBER STEVENS, SDSP Correctional Officer, sued in her official and individual capacities; DA FITZHUGH, SDSP Correctional Officer, sued in his official and individual capacities; MELISSA MATURAN, SDSP Administrative Remedy Coordinator, sued in her official and individual capacities; HUNTER SUMMERS, SDSP Special Security Correctional Officer, sued in his official and individual capacities;

Defendants.

Defendants move the court to enter a protective order. Docket 132.

Under Rule 26(c), "the court has discretion to stay discovery on other issues

until the critical issue has been decided.” 8A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2040 (3d ed. 2010). A stay of discovery is within the district court’s discretion and is reviewed by the appellate court for an abuse of that discretion. *Steinbuch v. Cutler*, 518 F.3d 580, 588 (8th Cir. 2008) (citing *Lakin v. Prudential Secs., Inc.*, 348 F.3d 704, 713 (8th Cir. 2003)); see also *Maune v. Int'l Bhd. of Elec. Workers, Local No. 1, Health & Welfare Fund*, 83 F.3d 959, 963 (8th Cir. 1996) (upholding the district court's granting of a party's request to stay discovery). “[T]he driving force behind creation of the qualified immunity doctrine was a desire to insure that insubstantial claims against government officials [will] be resolved prior to discovery.” *Pearson v. Callahan*, 555 U.S. 223, 231 (2009). Because the qualified immunity issue may be dispositive, the court grants defendants’ motion to stay discovery.

Thus, it is ORDERED that

1. Defendants’ motion for a protective order (Docket 132) is granted.
2. Defendants’ motion for summary judgment based on qualified immunity is due by September 10, 2018.

DATED this 26th day of June, 2018.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE